

Appln No. 10/573,230

Amdt date January 18, 2011

Reply to Panel Decision of November 18, 2010 and Office Action of July 8, 2010

REMARKS/ARGUMENTS

With this response, claims 5-24 are pending. Claim 1 is amended and claims 23-24 are new. Amendments to claim 1 include replacing the terms "comprising" and "consisting essentially of" with "consisting of." New claims 23 and 24 are supported by the original specification, drawings, and claims as filed, for example, at page 15, lines 13-17 and page 18, line 12. No new matter is added.

Interview

As a preliminary matter, Applicant would like to briefly summarize the telephone interview with Applicant's representative on Thursday, August 19, 2010. During the interview, Applicant discussed the differences between the claimed invention and the prior art references of Dal Moro et al. (US 4,323,556) and Kumar (U.S. 4,343,751). The Examiners stated that the recited "*consisting essentially of*" term would be read as "comprising" in the absence of support for this term in the specification.

35 U.S.C. 103(a) Dal Moro in view of Kumar and Rong

In the Office Action of July 8, 2010, claims 5-22 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Dal Moro et al. (GB 2067406) in view of Kumar (US 4,343,751) and Rong et al. (US 6,444,742). In making this rejection, it is asserted at page 5 of the action that, although Dal Moro et al. do not teach calcination or steps thereof, this deficiency is cured by Kumar and Rong et al. Specifically, the Examiner has asserted that it would have been obvious to calcine said clays as taught by Kumar and utilize the calcination parameters of Rong et al., with the formulations of Dal Moro et al. in order to calcine said clays by known steps. As discussed in the interview, the Applicant traverses this rejection for reasons as follows.

Independent claim 1 is herein amended, and now recites, in relevant part, *A sustained release pheromone formulation consisting of: a substrate for containing the pheromone consisting of a calcined crystalline mineral.* As acknowledged in the action, Dal Moro et al. do

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not teach or suggest a calcining step. However, even if one combines Dal Moro et al. with Kumar, one still would not have arrived at the claimed invention. At col. 4, lines 18-20, Kumar teaches, "[t]he present agglomeration process works well for either noncalcined fines or for a combination of noncalcined and calcined fines." Furthermore, at col. 4, lines 29-34, Kumar teaches ". . . one-hundred percent (100%) noncalcined fines can be used in the agglomeration process; however if calcined fines are used, generally up to about thirty-five (35) parts of the calcined fines may be used with sixty-five (65) parts of noncalcined fines" (emphasis added). As such, if the skilled person considering Dal Moro et al. were to incorporate the teachings of Kumar, the resulting composition would be a non-calcined mineral--or, at most, a mixture of 65% non-calcined and 35% calcined minerals, because Kumar teaches the use of exclusively noncalcined fines or, alternatively, a mixture wherein the majority of the mixture (65 parts) should be noncalcined. The 35% calcined mixture as taught by Kumar is at odds with the presently claimed invention. Thus, Kumar fails to recognize that a substrate ***consisting of calcined*** crystalline minerals confers an unexpected and advantageous result.

The unexpected results achieved by Applicant's invention are disclosed in the present specification, for example, at page 21, Table 2 and page 22, Table 4, wherein the pheromone survival rate is reported to be *significantly* higher when the composition is fired. Specifically, as disclosed in Table 2, Example 2 shows that 72.1% of the pheromone survives in the fired composition at 30 days, compared to 37.9% pheromone survival for the unfired composition. Therefore, the product of Kumar is not identical, or even substantially similar, in structure or composition to the composition of present claim 5, as evidenced in the side-by-side comparisons in Tables 2 and 4. A Kumar composition of 65% non-calcined fines and 35% calcined fines is not a composition that consists of calcined crystalline minerals. As such, Kumar does not teach, suggest, or even contemplate the pheromone-containing benefit of using a fired crystalline mineral composition. As Rong et al. disclose firing clay nanocomposites to obtain a nanocomposite having desired mechanical properties and thermal resistance (col. 2, lines 4-6), the firing parameters of Rong et al. do not remedy the deficiencies in Dal Moro et al.

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Accordingly, independent claim 5, and all claims depending therefrom, including claims 6-22, are allowable over Dal Moro et al. in view of Kumar and Rong et al.

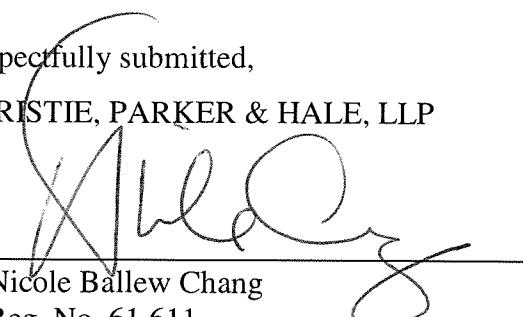
New claims 23 and 24

With this amendment, Applicant presents new claims 23-24. Applicant submits that claims 23-24 patentably distinguish the claimed invention over Dal Moro et al. in view of Kumar and Rong et al. As such, claims 23-24 are allowable over the cited art.

Conclusion

Claims 5-24 are pending. In view of the above remarks and amendments, Applicant submits that all pending claims are in condition for allowance. Applicant therefore respectfully requests reconsideration and a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
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